

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



March 6, 2000

ALL-COUNTY INFORMATION NOTICE NO: I-20-00

TO: ALL COUNTY WELFARE DIRECTORS
ADULT PROTECTIVE SERVICES (APS)
PROGRAM MANAGERS
ALL COUNTY COUNSELS
ALL COUNTY PUBLIC GUARDIAN OFFICES

REASON FOR THIS TRANSMITTAL

- ☒ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order or Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☒ Initiated by CDSS

SUBJECT: 1999 CHAPTERED LEGISLATION IMPACTING THE ADULT
PROTECTIVE SERVICES PROGRAM

This All-County Information Notice provides a summary of statutes enacted during the 1999 legislative session that impact the Adult Protective Services (APS) Program. The attached legislative summaries of Assembly Bills (AB) and Senate Bills (SB) are for general informational purposes only.

Separate All-County Letters or All-County Information Notices have been or will be issued for some statutes to provide more detailed descriptions of specific programmatic issues and implementation procedures. Unless otherwise noted, these statutes became effective on January 1, 2000.

If you have any questions regarding this notice, you may contact the Adult Protective Services Bureau, at (916) 229-0323.

Sincerely,

***Original Document Signed By
Donna L. Mandelstam on 3/6/00***

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division

Attachment

ADULT PROTECTIVE SERVICES PROGRAM

AB 59 (Cedillo) Chapter 561, Statutes of 1999

This legislation allows an elder or dependent adult who has suffered abuse to seek protective orders under the following circumstances: 1) an order prohibiting a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, telephoning, or contacting or coming within a specified distance of, or disturbing the peace of the petitioner (the elder or dependent adult); 2) an order excluding a party from the petitioner's residence or dwelling; 3) an order enjoining a party from specified behavior; 4) an order to restrain any person for the purpose of preventing a recurrence of abuse.

AB 526 (Zettel) Chapter 383, Statutes of 1999

This legislation creates an exception to the hearsay rule for certain statements of elder and dependent adults who are victims of abuse. A statement made by a victim is not made inadmissible by the hearsay rule if the victim is unavailable as a witness and all of the following are true: 1) the person making the statement guarantees the statement was not the result of promise, inducement, threat, or coercion; 2) there was no evidence that the unavailability of the victim was caused by the party who is offering the statement; 3) the statement has been videotaped by a law enforcement official prior to the death or disabling of the victim; 4) the statement was relevant to the issues to be tried; 5) the statement was supported by corroborative evidence; 6) the victim was 65 years of age or older or a dependent adult at the time of the attempted violation, or the victim was either deceased or disabled at the time of the criminal proceeding.

AB 739 (Pecscetti) Chapter 236, Statutes of 1999

Existing law authorizes mandated reporters not to report allegations of abuse, as defined in Section 15610.07 of the Welfare and Institutions Code, under specified circumstances. This bill restricts eligibility for this exemption to physicians and surgeons, registered nurses, or psychotherapists, as defined in Section 1010 of the Evidence Code. It also limits the types of abuse which are subject to this exception to some but not all of the conditions listed in section 15610.07, as described below. The exemption may be used by the physician and surgeon, registered nurse or psychotherapist, if all the following circumstances apply:

- a) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, isolation, financial abuse, or neglect.
- b) The mandated reporter is not aware of any independent evidence that corroborates the statement that abuse has occurred.
- c) The elder or dependent adult has been diagnosed with a mental illness, defect, dementia, or incapacity, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

- d) In the exercise of clinical judgement, the physician and surgeon or psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

All-County Letter (ACL) 99-16, dated March 26, 1999, Attachment A, Page A-2, provided instructions for the reporting requirements mandated by the passage of SB 2199, Chapter 946, Statutes of 1998. AB 738 changes the provisions in ACL 99-16, Attachment A, to restrict the exemptions from mandated reporting to physicians, surgeons, registered nurses, or psychotherapists under those circumstances listed on the previous page.

AB 1499 (Lowenthal) Chapter 414, Statutes of 1999

This legislation requires long-term health care facilities or community care facilities that provide care to adults to also provide training to their staff in recognizing and reporting elder and dependent adult abuse. Although these facilities have always provided training to their staff in recognizing and reporting abuse, this has now become a statutory requirement.

SB 72 (Murray) Chapter 454, Statutes of 1999

This legislation authorizes a lawyer, while acting as a fiduciary, to sell financial products to any client who is an elder or dependent adult with whom he or she has or has had an attorney-client relationship within the proceeding 3 years, if the transaction is fair and reasonable to the client, and the lawyer provides the client with a written disclosure that includes certain information about the financial product and the terms of the proposed sale. An injured client may sue for civil damages and other civil remedies and may seek an additional award under certain conditions. A violation of these provisions is cause for discipline by the State Bar.

SB 1003 (Vasconcellos) Chapter 670, Statutes of 1999

This bill allows counties the ability, at intake, based on an evaluation of risk, to determine that an in-person response is not required when it has been determined, and documented by the county, that the elder or dependent adult is not in imminent danger, and that an immediate or 10-day in-person response is not necessary to protect the health or safety of the elder or dependent adult. This bill also requires the CDSS to establish the criteria and standards necessary to determine the circumstances in which county APS agencies are not required to conduct an in-person investigation, but allows counties to implement the provisions of the bill prior to the development of statewide standards.

This bill requires counties to collect data, and requires CDSS to report to the Legislature on April 1, 2001 on the data collected. This bill removes the date by which regulations must be adopted for the statewide APS Program, and continues to authorize the CDSS to issue instructions through ACLs until the regulations are adopted. This legislation became effective January 1, 2000, and sunsets on January 1, 2001. Detailed instructions and the data collection form are provided in ACL # 99-98, which will be transmitted to counties in the near future.